

§ 551.710

FLSA claim file to the parties concerned. For the purposes of this subpart, “the parties concerned” means the claimant, any representative designated in writing, and any representative of the agency or OPM involved in the proceeding.

(c) Except when the claimant has requested confidentiality or the disclosure would constitute a clearly unwarranted invasion of personal privacy, OPM, upon a request which identifies the individual from whose file the information is sought, will disclose the following information from a claim file to a member of the public:

(1) Confirmation of the name of the individual from whose file the information is sought and the names of the other parties concerned;

(2) The remedy sought;

(3) The status of the claim;

(4) The decision on the claim; and

(5) With the consent of the parties concerned, other reasonably identified information from the file.

§ 551.710 Where to file an FLSA claim with OPM.

An FLSA claim must be filed with the OPM Classification Appeals and FLSA Program, 1900 E Street, NW., Washington, DC 20415-0001.

PART 553—REEMPLOYMENT OF CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS

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AUTHORITY: 5 U.S.C. 8344, 8468, Sec. 651, Pub. L. 106-65 (113 STAT. 664).

5 CFR Ch. I (1-1-10 Edition)

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Subpart A—General Provisions

§ 553.101 Applicability.

This part applies to employment of civilian annuitants who would be subject to termination of annuity or annuity offset under 5 U.S.C. 8344 or 5 U.S.C. 8468. Agencies may request exceptions as provided in subpart B of this part from the reemployed annuitant provisions of 5 U.S.C. 8344 (for Civil Service Retirement System annuitants) or 8468 (for Federal Employees’ Retirement System annuitants), as appropriate.

[65 FR 19644, Apr. 12, 2000]

§ 553.102 Definitions.

(a) *Agency*, as used in this part, means an executive agency as defined in 5 U.S.C. 105.

(b) *Annuitant*, as used in this part, refers to a current or former civilian employee who is receiving, or meets the legal requirements and is applying or has announced intention to apply for, an annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on his or her service.

(c) *Retiree*, as used in this part refers to an annuitant as defined in paragraph (b) of this section.

[56 FR 6206, Feb. 14, 1991, as amended at 65 FR 19644, Apr. 12, 2000]

§ 553.103 General policy.

(a) *Agency discretion and responsibility*. The decision to request an exception, or to grant an exception under delegated authority, for any individual under any of the provisions of this part will be at the discretion of the employing agency. A determination made in connection with one position does not require a like determination in connection with any other position. In deciding whether to request an exception or grant an exception under delegated authority, each agency is expected to weigh fiscal responsibility and employee equity and should consider such factors as availability of funds as well as the criteria set out in this part.

(b) *Application of exceptions*. An exception to the salary offset provisions of 5

U.S.C. 8344 or 8468 authorized by OPM or an agency under this part applies only to the particular individual for whom it was authorized and only while that individual continues to serve in the same or a successor position. The exception terminates upon the individual's assignment to a different position unless a new exception is authorized under the provisions of this part.

[56 FR 6206, Feb. 14, 1991, as amended at 65 FR 19644, Apr. 12, 2000]

Subpart B—Special Provisions for Reemployment Without Penalty To Meet Exceptional Recruiting or Retention Needs

§ 553.201 Requesting OPM approval for reemployment without reduction or termination of annuity in individual cases.

(a) *Request by agency head.* The head of an agency may request OPM to approve individual exceptions on a case-by-case basis to meet temporary hiring needs based on an emergency or other unusual circumstances or when the agency has encountered exceptional difficulty in recruiting or retaining a qualified candidate for a particular position. Authority to submit such a request may not be redelegated to an official below the agency's headquarters level.

(b) *Requirements for all requests.* (1) Each request must identify the individual for whom the exception is requested, the appointing authority to be used, and the position to which he or she will be appointed.

(2) The request must be submitted in accordance with the criteria set out in paragraphs (c), (d), (e), or (f) of this section.

(3) Unless the request is submitted in accordance with paragraph (e) of this section, the individual must be off the agency's rolls before submission.

(c) *Requests based on an emergency hiring need.* An agency may request reemployment without penalty for an individual whose services are needed on a temporary basis to respond to an emergency involving a direct threat to life or property. Requests submitted on that basis must meet the following criteria:

(1) *Nature of emergency.* Describe the military threat, natural disaster, or other unforeseen occurrence, the date it occurred, and the expected duration of the emergency response effort.

(2) *Need for the individual's services.* The agency must show either that the individual is uniquely qualified for the emergency response work to be done or that the number of positions to be filled and/or urgency of response justifies making the particular appointment without further delay. OPM will not approve reemployment without penalty under 5 U.S.C. 8344, or 8468 solely to meet normal seasonal workload fluctuations.

(d) *Requests based on severe recruiting difficulty.* Generally, requests for exception will be based on exceptional difficulty in recruiting a qualified candidate for a particular position. Requests submitted on this basis must include a description of the length, breadth, and results of the agency's recruiting efforts for the position and any other factors demonstrating that a legitimate recruiting need cannot be met without the requested waiver. These factors may include, but are not limited to, unusual qualification requirements or working conditions, possibility of job reengineering or contracting, or a need to fill the position without further delay.

(e) *Exceptions based on need to retain a particular individual.* In very rare cases, an exception may be appropriate when an agency needs to retain the services of a particular individual who is uniquely qualified for an ongoing project. Requests submitted on this basis must meet the following criteria:

(1) *Critical nature of project.* The agency must describe the importance of the project to the agency's mission, the potential costs of project failure or delay, legislative or Presidential deadlines, if any, and any other factors demonstrating that the project is unusually critical. Exceptions will not be approved under this paragraph merely to avoid delay in scheduled completion of ongoing work.

(2) *Candidate's unique qualifications.* The agency must describe the knowledges, skills, and abilities possessed by the individual that are essential for successful completion of the project